

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 2033									
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>09/04/2008</u> Signature <u>/Jamie Cameron/</u> Typed or printed name <u>Jamie Cameron</u>	Application Number 10/647,936		Filed August 26, 2003								
	First Named Inventor Charles W. Norman										
	Art Unit 2619	Examiner Steven H.D. Nguyen									
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table style="width: 100%;"><tr><td style="width: 50%; vertical-align: top;"><input type="checkbox"/> applicant/inventor.</td><td style="width: 50%; vertical-align: top;"><u>/David J. Bovitz/</u> _____ Signature</td></tr><tr><td style="vertical-align: top;"><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</td><td style="vertical-align: top;"><u>David J. Bovitz</u> _____ Typed or printed name</td></tr><tr><td style="vertical-align: top;"><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>61,911</u></td><td style="vertical-align: top;"><u>(720) 562-2280</u> _____ Telephone number</td></tr><tr><td style="vertical-align: top;"><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</td><td style="vertical-align: top;"><u>09/04/2008</u> _____ Date</td></tr></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>				<input type="checkbox"/> applicant/inventor.	<u>/David J. Bovitz/</u> _____ Signature	<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)	<u>David J. Bovitz</u> _____ Typed or printed name	<input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>61,911</u>	<u>(720) 562-2280</u> _____ Telephone number	<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____	<u>09/04/2008</u> _____ Date
<input type="checkbox"/> applicant/inventor.	<u>/David J. Bovitz/</u> _____ Signature										
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)	<u>David J. Bovitz</u> _____ Typed or printed name										
<input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>61,911</u>	<u>(720) 562-2280</u> _____ Telephone number										
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____	<u>09/04/2008</u> _____ Date										
<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.											

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Charles W. Norman

Confirmation No.: 8154

Application No.: 10/647,936

Art Unit: 2619

Filed: 08/26/2003

Examiner: Steven H. D. Nguyen

For: OVERHEAD REPLICATION FOR SONET SIGNALS

Mail Stop: AF
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

In response to the Advisory Action dated 07/25/2008, the Applicant requests review of the Final Rejection in the above-identified application. No amendments are being filed with this request. A Notice of Appeal under 37 C.F.R. § 41.31(a)(1) is being filed herewith. The review is requested for the reasons provided in the following remarks.

REMARKS

Claims 1-6, 8-16, and 18-20 remain pending in the application. Claims 1-6, 8-16, and 18-20 currently stand rejected. Claims 7 and 17 have been previously canceled. The Applicant respectfully requests consideration of the following remarks and allowance of claims 1-6, 8-16, and 18-20.

Claim Rejections under 35 U.S.C. § 103(a)

Claims 1-6, 8-16, and 18-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 7,006,536 (Somashekhar), in view of U.S. Patent No. 6,169,754 (Sugawara), and in further view of Official Notice. Claims 1-6, 8-16, and 18-20 also stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0103926 (Cook), in view of Official Notice. A proper rejection must consider all of the limitations of a claim. The present rejections fail to address all of the limitations of claim 1, and thus represent clear error. The Applicant respectfully disagrees with the rejections for at least the following reasons.

Independent claim 1 recites, in part, receiving over a single optical wavelength a first SONET signal that includes a first section overhead, a first line overhead, path overhead, and user data. Claim 1 further recites, in part, transferring the *same* first section overhead, first line overhead, path overhead, and user data of the first SONET signal *in parallel over multiple optical wavelengths*.

Regarding the rejection of claim 1 over Somashekhar and Sugawara, the final Office Action admits that, separately and in combination, the references fail to teach transferring the first section overhead, the first line overhead, the path overhead, and the user data in parallel over multiple optical wavelengths, as found in claim 1. (Please see the final Office Action at page 2, paragraph no. 2, lines 12-18 and page 4, lines 10-14.) The final Office Action then takes Official Notice that “*a method and system for receiving over a single optical wavelength a sonet signal to transfer in parallel over multiple optical wavelengths a sonet signal is well known and expected in the art at the time of invention was made.*” (Id.) This statement of Official Notice does not address the aspects of claim 1 absent from Somashekhar and Sugawara. Although the resulting combination of Somashekhar, Sugawara, and the statement of Official Notice may

discuss multiplexing *entire* SONET signals onto a parallel path over multiple optical wavelengths, the combination does not teach or suggest what is recited in claim 1. Rather, claim 1 recites, in part, transferring the *first section overhead, the first line overhead, the path overhead*, and the user data of the first SONET signal in parallel over multiple optical wavelengths.

As an example, the combination of Somashekhar, Sugawara, and the Official Notice is similar to transferring an OC-192 signal in parallel as four OC-48 signals. This example is also similar to that mentioned in the Advisory Action. An optical carrier (OC) can be comprised of multiple smaller bandwidth OC signals. In this manner, an OC-192 could be comprised of four smaller bandwidth OC-48 signals, and likewise an OC-48 could be comprised of four smaller bandwidth OC-12 signals. However, the smaller bandwidth OC signals (i.e. OC-48) which have been aggregated into a larger bandwidth OC signal (i.e. OC-192) remain individually intact when the larger bandwidth signal is transferred in parallel over four such OC-48 signals. What claim 1 recites, in the present application, is transferring the *components* (first section overhead, the first line overhead, the path overhead, and the user data) of an *individual* SONET signal in parallel over multiple optical wavelengths, not *entire* smaller bandwidth signals of a larger bandwidth signal in parallel.

The Applicant acknowledges that the Examiner cited references in the final Office Action in response to a previous Office Action's statement of Official Notice of "*an interface for receiving a single optical wavelength includes a sonet signal and transmitting the sonet signal in parallel over multiple optical wavelengths.*" (Please see the final Office Action at page 8, paragraph no. 4.) Here again, this statement of Official Notice does not address the aspects of claim 1 absent from Somashekhar and Sugawara - namely, transferring the first section overhead, the first line overhead, the path overhead, and the user data in parallel over multiple optical wavelengths.

Regarding the rejection of claim 1 over Cook in view of Official Notice, the Office Action admits that Cook fails to teach transferring the first section overhead, the first line overhead, the path overhead, and the user data in parallel over multiple optical wavelengths, as recited, in part, by claim 1. (Please see the final Office Action at page 7, first full paragraph) However, as with the rejection of the claims over Somashekhar and

Sugawara, the Office Action takes Official Notice that “*a method and system for receiving over a single optical wavelength a sonet signal to transfer in parallel over multiple optical wavelengths a sonet signal is well known and expected in the art at the time of invention was made.*” (Id.) The Applicant asserts that the discussion above regarding the rejection of the claims over Somashekhar and Sugawara applies as well to the rejection of the claims over Cook.

A proper rejection must consider all of the limitations of a claim. The present rejections fail to address all of the limitations of claim 1. Specifically, the Examiner’s assertion that Somashekhar, Sugawara, and the statement of Official Notice, as well as the Examiner’s assertion that Cook in view of Official Notice, teaches or suggests transferring the first section overhead, first line overhead, path overhead, and user data of the first SONET signal in parallel over multiple optical wavelengths represents clear error. The rejections should therefore be withdrawn.

Based on the foregoing comments, the Applicant contends that claim 1 is allowable, and such indication is respectfully requested. Independent claim 11 contains limitations similar to those of claim 1 and, therefore, is also allowable. Dependent claims 2-6, 8-10, 12-16, and 18-20 stand similarly rejected under 35 U.S.C. § 103(a). The Applicant refrains from discussion of dependent claims 2-6, 8-10, 12-16, and 18-20 in view of their dependence from otherwise allowable independent claims 1 and 11.

CONCLUSION

The claims in their present form are allowable over the art of record. Therefore, the Applicant respectfully solicits their allowance.

The Applicant hereby authorizes the Office to charge Deposit Account No. 210765 the appropriate fee under 37 C.F.R. §41.20(b)(1) for the Notice of Appeal filed herewith. The Applicant also authorizes the Office to charge Deposit Account No. 210765 the appropriate fee for a one-month extension of time. Should the Office determine any other fees are necessary, the Office is hereby authorized to charge Deposit Account No. 210765.

Respectfully submitted,

/David J. Bovitz/

SIGNATURE OF PRACTITIONER

David J. Bovitz, Reg. No. 61,911

Setter Roche LLP

Telephone: (720) 562-2280

E-mail: dave@setterroche.com

Correspondence address:

CUSTOMER NO. 28004

Attn: Steven J. Funk

Sprint

6391 Sprint Parkway

Mailstop: KSOPHT0101-Z2100

Overland Park, KS 66251-2100